''I think that we're very excited about where we're going,'' Titelman said. ''We're raising money as quickly as we can on an accelerated schedule. We'll get to our $100 million as soon as possible.''

The bulk of the remaining $65 million will be raised through the sale of commemorative coins. Funds raised from the sale of two bicentennial coins in the late 1980s have now reached $30 million, and the CPC expects to make another $5 million to $10 million from the sale of two coins set to be released by the U.S. Mint this spring.

For their part, Members and key staffers on both sides of the aisle remain committed to the project.

''The entire leadership and CPC remain very committed to this and very enthusiastic about it,'' said Ted Van Der Meid, an aide to Speaker Dennis Hastert (R-Ill.).

Van Der Meid also noted that last week's shooting incident at the White House ''reaffirms one of the main purposes for the visitors center.''

To assist with their efforts, the fund has hired outside fundraising consultants Wyatt Stewart & Associates and The Bonner Group. Also advising the fund is Steven Briganti, president and CEO of the foundation that funded the restoration and preservation of the Statue of Liberty and Ellis Island.

The fund's board of directors will hold its next meeting March 8, at which time it may have a better idea of monetary commitments from corporations.

''It's premature to make any statement about what we will be able to accomplish because there are a number of things being considered right now by a number of foundations,'' Fazio said. ''Whether or not we can get to the original goal, I think, remains to be seen. It's not going to be an easy task to do that.''

If the fund is not able to reach its initial goal, Fazio said, it will rely on more public money.

''I have not objected to the effort to raise private funds, and I've been part of that effort, but I certainly would hope that if we are only so successful at that, that we would then fall back on additional appropriations to make it happen,'' Fazio said. ''The most important thing is it not be something that is delayed or underdone.''

Former Sen. Dale Bumpers (D-Ark.), also a member of the board, said he has always favored Congress appropriating the funds needed to build the center.

''So far as this mixing of private and public money, I never have much liked that,'' Bumpers said in an interview last week. ''I thought if it was a good idea, we ought to fund it with public funds.''

Sen. Strom Thurmond (R-S.C.), co-chairman of the CPC, said in a prepared statement, ''At this time I feel that it would be premature to make any final decisions regarding the appropriation of additional funds for the Capitol visitors center. However, I recognize that because of the importance of this project, it is essential that we keep all of our options open.''

Sen. Bob Bennett (R-Utah), chairman of the Appropriations subcommittee on the legislative branch and a member of the CPC, said he would consider appropriating more money for the project if it was needed.

''I haven't given any thought to what happens if [the current fundraising framework] won't work,'' Bennett said. ''But if it becomes clear that it won't work, then I would take a look at an additional appropriation.''

However, Rep. John Mica (R-Fla.), a CPC member and one of the most vocal supporters of the visitors center to date, said he is against appropriating more taxpayer money.

''I don't think we need any more public money and particularly at this stage,'' Mica said. ''At some point if we have to beef up the private fundraising efforts or help assist them in any way, there's plenty of muscle power that can raise that money, particularly Members who unabashedly raised hundreds of millions for campaign efforts.''

Outside of revisiting the public funding debate, the CPC can also explore other private fundraising options because its agreement with the fund is not exclusive. The CPC could begin to accept private donations directly or it could set up another organization to raise private money for the project.

One thing that has been a roadblock for the fund's efforts thus far is the issue of public recognition.

From the outset, most Members of Congress have been adamantly opposed to the idea of naming portions of the visitors center after corporate sponsors, and the leadership and the fund have differed on the ways in which corporations can receive public recognition for the donations.

''This is too important a part of our history,'' Bumpers said. ''We're not going to name this the MCI visitors center or any of those things.''

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING SYMPATHY FOR LOST LOVED ONES IN HAWAII

Mr. AKAKA. Mr. President, I express my sincerest sympathies to the families of those who have lost loved ones in two unrelated incidents the U.S. military in Hawaii during the past week.

On Friday afternoon, the U.S.S. *Greeneville* collided with the *Ehime Maru*, a Japanese fishing vessel. I join President Bush in expressing my regret to the people of Japan for this tragedy. My heart goes out to the families of the nine people who are still missing following this incident.

On Monday evening, two UH–60 Blackhawk helicopters crashed during a training exercise at the Kahuku Military Training Area, resulting in six deaths. My thoughts and prayers are with the families and units who are mourning the loss of their loved ones. I also wish a speedy recovery to those soldiers who are recovering from injuries sustained in this accident.

I am certain that the investigations into these incidents will be thorough and comprehensive. But my purpose today is not to question why these incidents occurred, but to express the genuine sadness and concern that I share with the people of Hawaii and the rest of the nation over these two unfortunate episodes.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Hawaii is recognized.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 329 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. AKAKA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, the distinguished chairman of the Senate Judiciary Committee, Mr. HATCH, is going to be coming over on a matter of ours. He is not here yet. I ask unanimous consent that I be able to proceed on a different subject as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LESSONS TO BE LEARNED FROM THE WRONGFUL CONVICTION OF EARL WASHINGTON

Mr. LEAHY. Mr. President, I want to discuss the case of Earl Washington. Mr. Washington was released from custody Monday after more than 17 years in prison. In fact, of the 17 years in prison, 10 years of that were on death row. Virginia Governor James Gilmore pardoned Earl Washington on October 2, 2000, after some new DNA tests confirmed what earlier DNA tests had already shown—he was the wrong guy. They had the wrong person in prison on death row.

I mention this case as probably the most recent that we have seen in the press, but we have seen a shocking number of cases in the past 2 years in which inmates have been exonerated after long stays in prison, including more than 90 cases involving people who had been sentenced to death. Let me repeat that: more than 90 cases where people had been sentenced to death and they then found they had the wrong person.

Since Earl Washington was pardoned 4 months ago, six more condemned prisoners in four different States have had their convictions vacated through exonerating evidence: William Nieves, sentenced to death in Pennsylvania in 1994; Michael Graham and Albert Burrell, sentenced to death in Louisiana in 1987; Peter Limone and Joseph Salvati, sentenced to death in Massachusetts in 1968; and Frank Lee Smith, sentenced to death in Florida in 1986.

There have also been other recent exonerations of inmates who were not sentenced to death, but were serving long terms of imprisonment. Just last month, the State of Texas released Chris Ochoa from prison at the request of the local prosecutors. The prosecutors themselves asked that he be released. In 1989, Ochoa pled guilty to a rape-murder he did not commit. Somebody may ask: Why would you plead guilty to a rape and murder that you did not commit? Because the authorities said they were going to make sure he got a death sentence if he did not plead guilty to the crime.

DNA tests that were not available when he was arrested cleared Ochoa and his codefendant and implicated another man, who had previously confessed to the crime on several occasions.

Here is how bad this case was. Chris Ochoa was arrested. He knew he did not commit the crime, this rape-murder. But the police basically told him: We are going to have you executed if we go to trial. We are going to prove it. We will have you executed. Of course, you can plead guilty and we will spare you the death penalty. He did. But then, even though they had the man who actually committed this heinous crime, who kept confessing to it, they did not pay any attention to him because it was easier to just keep the wrong guy locked up.

Of course, when the DNA evidence came out—it was there in front of everybody—they said: Look, we have the wrong guy. This other person, the person who had confessed to it, is the right guy after all. Whoops, sorry about that. Well, we have only had you locked up for over a decade for a crime you did not commit.

We must identify the cracks in the system that allowed these injustices to occur. DNA is a central tool in this pursuit. It has already led to the exoneration of more than 80 people in this country, including Earl Washington and others who had been sentenced to death.

DNA testing has opened a window to give us a disturbing view of the defects of our criminal justice system. When DNA evidence exonerates a person such as Earl Washington, there is a unique opportunity to evaluate how the system failed that person, and perhaps even more importantly, to identify broader patterns of error and abuse.

If a plane falls from the sky and crashes, we investigate the causes. We try to learn from the tragedy so we can avoid similar tragedies in the future. We should do no less when a wrongfully convicted person walks off death row.

The justice system did not just fail Earl Washington; it crashed and burned. We have a lot to learn from this case. It highlights many of the problems we see over and over again in cases of wrongful conviction.

These are the basic facts of the Earl Washington case. In June of 1982, a young woman named Rebecca Williams was raped and murdered in Culpeper, VA. Nearly a year later, Earl Washington was arrested on an unrelated charge. Earlier that day, Washington had broken into the home of an elderly woman named Helen Weeks. But she surprised him. He hit her over the head with a chair and fled. At the time he was arrested, he was drunk and running wild through the woods.

Earl Washington suffers from mental retardation. He has an IQ of 69, which puts him in the bottom 2 percent of the population. Like a child, he tends to answer questions in whatever way he thinks will please his questioners. After his arrest, he ''confessed'' to pretty much every unsolved crime the police asked him about.

A police sergeant named Alan Cubbage later described the scene to the Washington Post. He got a call that day from the officers who were interrogating Earl Washington. He told the Post: ''It was almost like a big party. 'Come on down,''' they said, ''This guy is confessing to everything.''

He was confessing to crimes he could not possibly have committed. But whatever it was, when they asked him if he committed the crime, he said: ''Yes, sir.''

First, he confessed to the crime he had actually committed—breaking into Helen Weeks' home and hitting her over the head with a chair. That he did do. Then he confessed to raping her. Without any reason to suspect that Weeks had been raped, the officers interrogating Washington asked if he had raped her, and he gave the standard response, ''Yes, sir.''

On that basis alone, they charged him with rape. Well, then Helen Weeks came forward and said, ''Nobody raped me. I never told the police I had been raped. Nobody tried to rape me.'' And they kind of tiptoed into court and dropped the rape charge.

During that same interrogation session, Earl Washington went on to confess to four other unrelated crimes. Investigators later concluded that he could not have committed three of the crimes in other words, that his confessions were wholly unreliable. Yet with virtually no evidence other than the remaining confession, he was charged and brought to trial for the fourth crime the rape and murder of Rebecca Williams.

Earl Washington almost immediately retracted his confession to the Williams murder, and there were no fingerprints or blood linking him to the crime scene. But he was convicted, and the jury recommended execution. He was sentenced to death, his appeals were rejected, and he came within a few days of being electrocuted. The whole justice system failed him. But science eventually came to his rescue.

Mr. President, everybody who has been in law enforcement knows you get some people like Earl Washington, who are ready to confess to everything. When I was prosecuting cases, we had a man—he is no longer alive—who would read something in the paper, a horrendous crime, and he would immediately confess. Especially if it was cold weather, he would come to a warm police station and he would confess to everything. We could make up cases and he would confess.

Obviously, that is one level. But with Earl Washington it was entirely different. He had committed a crime. He had broken into a woman's house, and he had hit her with a chair. But he did not rape her. Nobody did. She said so herself. He certainly did not murder and rape the woman he was charged with murdering and raping. Somebody else did. But with no evidence at all, except for his confession, he was found guilty.

When Earl Washington was convicted in 1984, DNA testing was not available. By the early 1990s, DNA testing was available, although the technology has since improved, and tests done in 1993 and 1993—seven years ago—showed that Earl Washington did not rape Rebecca Williams.

Despite these test results, the state officials still thought he might be guilty. Maybe there was somebody else involved. Maybe there were two people—notwithstanding the fact that the woman who was murdered, who had lived for a period of time after she was attacked, said very clearly that there was only one person.

So Earl Washington remained in prison. There was so much doubt—at least they did not execute him—they commuted his sentence to life in January of 1994. But he was not pardoned. He was given life in prison, but still for a crime that he did not commit and more and more of the authorities in the State knew he did not commit and DNA tests proved he did not commit.

One would think the courts would be interested in scientific evidence, especially of a prisoner's innocence. Normally you do not have to prove your innocence, but this was a case where he could prove his innocence. One might ask, couldn't he go to court with the new DNA evidence and ask for a new trial? The answer is no; Virginia has the shortest deadline in the country for going back to court with new evidence. It has to be submitted within 21 days of conviction. After that, the defendant is out of luck.

Earl Washington could not submit the evidence within 21 days of conviction for a very simple reason: The technology for DNA testing, at the time of his conviction, was not available. And of course by the time it became available a few years later, he was in a catch-22: I've got DNA evidence that proves I'm innocent. Sorry, 21 days went by a long time ago. But they didn't have DNA evidence within 21 days of my conviction. I know, it is a crying shame. Stay on death row.

Last year, a new and more precise DNA test reconfirmed what the earlier tests had shown: Earl Washington did not commit the crime for which he was sentenced to death. The tests pointed

to another person who was already in prison for rape. So, 7 years after the initial DNA tests and more than 16 years after he was sentenced to be executed, Earl Washington was granted an absolute pardon for the rape and murder of Rebecca Williams, a rape and murder he never committed. After science had twice proven his innocence, the Commonwealth of Virginia finally acknowledged the truth.

That is not the end of the story. He then spent another 4 months in prison for his attack on Hazel Weeks. That is at least a crime he committed. He hit her with a chair in 1983. So now, 17 years later, he is finishing that sentence. People sentenced for similar crimes in Virginia are generally paroled after 7 to 10 years in prison. They made Earl Washington serve twice the time that others would serve the maximum possible time in prison. Having unjustly condemned him, the Commonwealth of Virginia compounded the injustice by keeping him in prison until two days ago, when he became entitled to mandatory parole. It is almost as if they were saying: How dare you be innocent of the other crime we convicted you of? How dare you prove us wrong? We will make you pay for it.

I had hoped to meet with Earl Washington after his release from prison. Congressman BOBBY SCOTT of Virginia wrote to the Virginia correctional authorities 2 weeks ago and sought permission for Earl Washington to travel to Capitol Hill Monday under the care and supervision of his attorneys. We thought it was important for the American people to hear firsthand an account of this injustice. A good justice system learns from its mistakes.

The last 17 years of Earl Washington's life have been one of the system's worst mistakes. We felt we owed it to Earl Washington and future Earl Washingtons to listen. The officials of the Commonwealth did not. They had a different view. They did not want Earl Washington to come here. They did not want him to come here even for a few hours, come that great distance from Virginia, which is 2 miles away. They didn't want him to come those extra 2 miles and tell the story.

This case reveals the dark side of a system that is not known for admitting its mistakes. I am not speaking only of the Commonwealth of Virginia. A whole lot of other States have been just as bad at admitting their mistakes.

In the Earl Washington case, state officials insisted on pursuing a death penalty charge despite having wholly unreliable evidence. They kept him in prison for years despite knowing he was falsely convicted. They kept him locked up, knowing he was falsely convicted. And then they would not even let him come here to Washington to tell the American people what happened.

We need to hear from such people like Earl Washington, not hide them from public view. The American justice system is about the search for the truth: the truth, the whole truth, and nothing but the truth. As a former prosecutor, I understand the importance of finality in criminal cases, but even more important than that is the commitment to the truth; that has to come first.

This case tells us we cannot sit back and assume prosecutors and courts will do the right thing when it comes to DNA evidence. It took Earl Washington years to convince prosecutors to do the very simple tests that would prove his innocence, and more time still to win his freedom.

Some States continue to stonewall on requests for DNA testing. They continue to hide behind time limits and procedural default rules to deny prisoners the opportunity to present DNA test results in court. They continue to destroy DNA evidence that could set innocent people free.

These practices must stop. I have long supported and I continue to support funding to ensure that law enforcement has access to DNA testing and all the other tools it needs to investigate and prosecute crime in our society. But if we as a society are committed to getting it right, and not just to getting a conviction, we need to make sure that DNA testing, and the ability to present DNA evidence to the courts, is also available to the defense. We should not pass up the promise of truth and justice for both sides of our adversarial system, and that promise is there in DNA evidence.

We must also understand this case shows why we should not allow the execution of the mentally retarded. As I noted in a floor statement last December, people with mental retardation are more prone to make false confessions simply to please their interrogators, and they are often unable to assist their lawyers in their own defense. Earl Washington confessed to no less than four serious felonies which he did not commit and could not have committed. We should join the overwhelming number of nations that do not allow the execution of the mentally retarded.

There are good things that may come out of this case. I know the Supreme Court of Virginia has proposed eliminating the 21-day rule, which prevented Earl Washington from getting a new trial based on the initial DNA tests in the early 1990s. That would be a good thing if it happens. But it would be just a start.

I urge us to go forward and pass the Innocence Protection Act, supported by both Republicans and Democrats in this body and in the other body. This legislation addresses several serious problems in the administration of capital punishment. Most urgently, the bill would afford greater access to DNA testing for convicted offenders and help states improve the quality of legal representation in their capital cases. It also proposes that the United States Congress speak as the conscience of the Nation in condemning the execution of the mentally retarded.

People of good conscience can and will disagree on the morality of the death penalty; but people of good conscience all share the same goal of preventing the execution of the innocent. People of good conscience should not disagree that the way the case of Earl Washington was handled over the past 17 years was unjust. It was completely unacceptable. We ought to find ways to make sure these kinds of things do not happen again.

INTELLECTUAL PROPERTY AND HIGH TECHNOLOGY TECHNICAL AMENDMENTS ACT OF 2001

The PRESIDING OFFICER (Mrs. LINCOLN). Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to the consideration of S. 320, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 320) to make technical corrections in patent, copyright, and trademark laws.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate on the bill equally divided in the usual form.

The Senator from Utah.

Mr. HATCH. Madam President, I rise today to discuss S. 320, the Intellectual Property and High Technology Technical Amendments Act, which I have worked on with my distinguished colleague, the ranking member of the Judiciary Committee, Senator LEAHY. We have had a very productive relationship in the Judiciary Committee in the area of high technology and intellectual property. Our bipartisan cooperation has resulted in much good legislation that has helped American consumers and businesses and which has encouraged American innovation and creativity, including greater deployment of the Internet.

Some recent examples of our work include the following items:

The Satellite Home Viewer Improvement Act, which authorized the carriage of local television stations by satellite carriers, has brought local television to thousands across the country who might not have been able to get it before, and has brought competition in subscription television services to many others who before could only choose the local cable company. The passage last year of a loan guarantee program will help make the benefits of this law more widely available.

The Anticybersquatting Consumer Protection Act helps guard against fraudulent or pornographic websites that confuse, offend, or defraud unwitting online consumers who go to sites with famous business names only to find that someone else is using that trademarked name in bad faith under false pretenses. This law also helps protect the goodwill of American businesses that could be hurt by the bad faith misuse of their trademarked business name in ways that tarnish their